

HOUSE BILL REPORT

SB 5053

As Passed House:

April 5, 2005

Title: An act relating to service by publication in actions to establish or modify parenting plans, for legal separation or invalidity of marriage, and for nonparental custody.

Brief Description: Authorizing service by publication in actions to establish or modify parenting plans, for legal separation or invalidity of marriage, and for nonparental custody.

Sponsors: By Senators Kline and Johnson.

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 3/18/05, 3/25/05 [DP].

Floor Activity:

Passed House: 4/5/05, 93-1.

Brief Summary of Bill

- Authorizes service by publication in an establishment or modification of a parenting plan, in a legal separation or declaration of invalidity proceeding, and in a non-parental custody action where the child is in the physical custody of the petitioning party.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: Do pass. Signed by 6 members: Representatives Dickerson, Chair; Moeller, Vice Chair; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Lovick and Roberts.

Staff: Kara Durbin (786-7133).

Background:

In order to properly institute a lawsuit, a plaintiff must notify the respondent of the commencement of the suit by delivering a copy of the summons and petition. This is called service of process. Personal service is accomplished by either delivering a copy of the summons and petition to the respondent personally, or by leaving the documents at the respondent's home with a person of suitable age and discretion. Constructive service of process may be used when all attempts at personal service of process have failed in spite of

due diligence. If authorized by the court, constructive service of process may be conducted by mail, or by publication.

Service by publication in divorce proceedings is permissible when the respondent cannot be located and personally served. The summons must be published in a newspaper of general circulation in the county where the action is brought once a week for six consecutive weeks.

Summary of Bill:

Service by publication is extended to the following types of family law proceedings:

- (a) establishment or modification of a parenting plan or residential schedule;
- (b) legal separation;
- (c) declaration of invalidity; and
- (d) non-parental custody actions where the child is in the physical custody of the petitioning party.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill should require that a person search for the most current address available before resorting to service by publication. Sometimes the custodial parent tries to serve the other parent at an older address. In California, a parent usually searches the child support registry to find the most recent address.

The Washington State Bar Association supports this bill. This is the same bill as HB 1403 that was heard in this committee. This bill fills an important gap. One of the requirements to get service by publication is that you have to file an affidavit to show that you have exercised due diligence in trying to locate the respondent. Diligent effort could also include searching the state child support registry in many instances.

Testimony Against: None.

Persons Testifying: Senator Kline, sponsor; Chris Bell; and Janet Helson, Washington State Bar Association.

Persons Signed In To Testify But Not Testifying: None.